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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,853	03/19/2004	Cricket Lee	128521-1000	7444
7590 05/04/2005				
KENNETH R. GLASER MONIQUE A. VANDER MOLEN GARDERE WYNNE SEWELL LLP 1601 ELM STREET, SUITE 3000 DALLAS, TX 75201-4761		EXAMINER KAUFFMAN, BRIAN K		
		ART UNIT 3765 PAPER NUMBER		
DATE MAILED: 05/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/804,853	Applicant(s) LEE, CRICKET	
	Examiner Brian K Kauffman	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

New corrected drawings are required in this application because the drawings are objected to under 37 CFR 1.84. Figure 1 contains shading. Shading is not permitted. In figure 2, the lines, numbers, and letters are not uniformly thick and well defined, clean, durable, and black. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

Claim 26 is objected to because of the following informalities: claim 26 should refer to the method of claim 22 and not the method of claim 20. Claim 20 does not recite a method but rather recites a system. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Textile Technology Corporation's Size USA data set recited in the claim is an indefinite term. The contents of the data set are not permanent and can be changed and altered at some future point in time. The claim does not address this possibility and therefore the contents of the claim are indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Onyshkevych et al. (6,665,577).

In regard to claims 1-6, 8-9, and 13, Onyshkevych et al. discloses a method of providing a garment fit to a target consumer group comprising the steps of determining

common body types of the consumer group (col. 4, lines 40-43); establishing customized body measurement standards for each body type (col. 8, lines 37-41); selecting at least one real fit model for each body type (col. 7, lines 11-13); creating a sample garment in a range of sizes using grading rules; creating a sample garment on a fit model selected for each size and body type (col. 7, lines 31-47 and col. 8, lines 42-44); preparing a block for each sample garment size and body type; and using the block to provide a garment fit for a target consumer group (col. 8, 57-67).

In regard to claim 7, Onyshkevych et al. discloses that the block is created from slopers and used to prepare a starter pattern (col. 6, lines 55-67).

In regard to claim 10, Onyshkevych et al. discloses that the specific size that the sample garment is initially applied is in the middle of the range of sizes (col. 3, lines 26-29).

In regard to claim 11, Onyshkevych et al. discloses that the real fit model is used to check the sample garment fit before the block is prepared (col. 8, lines 61-65).

In regard to claim 12, Onyshkevych et al. discloses that the grading rules are applied to the sample garment after adjusting the sample garment to the selected real fit model (col. 8, line 61-col. 10, line 27).

In regard to claims 14-19 and 30, Onyshkevych discloses a system for preparing a custom fit garment comprising quantitative and qualitative data, including body point measurements about the target consumer group used to establish customized body measurement standards (col. 8, lines 37-41); a sample garment created from the customized body measurements standards (col. 42-44); a first real fit model with the

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body measurements that fall within the customized body measurement standards used to fit the sample garment (col. 7, 11-13); one or more grading rules to create sample garments in a range of sizes for the target consumer group (col. 7, lines 31-470; and a second fit model selected from the target consumer group and used to perfect the fit of the sample garment and prepare a custom fit garment (col. 7, lines 11-13).

In regard to claims 20-21, Onyshkevych et al. discloses that the custom fit garment is used to establish slopers, blocks, and patterns for production of the custom fit garment (col. 8, line 57-col. 10, line 27).

In regard to claims 22-24, Onyshkevych et al. discloses a method for providing a custom fit garment comprising the steps of selecting a target group based on at least one criteria (col. 4, lines 40-43); conducting research about the target group to obtain the data; identifying at least one body type from the data (col. 7, lines 11-13); providing size groupings for each body type (col. 8, lines 42-44); establishing customized body measurement standards for each size grouping (col. 3, lines 25-30); selecting a size in the middle of the size grouping to create a sample garment; checking fit of the sample garment on a real fit model with body measurements that conform with the customized body measurement standards (col. 8, lines 42-44); applying grading rules to the sample garment to obtain sample garments for the entire size grouping (col. 7, lines 31-52); checking fit at selected sizes using a real fit model for each size 9col. 8, lines 42-44); and creating custom fit garment at each size and body type after fits are checked (col. 1, lines 15-18).

In regard to claim 25, Onyshkevych et al. discloses grading rules that are applied to two sizes above and below the middle size after which the fit is checked on a real fit model (col. 7, lines 11-13 and 31-47 and col. 8, lines 42-44).

In regard to claim 26, Onyshkevych et al. discloses that the adjustment to the fit requires that the custom body measurement standards be adjusted (col. 8, lines 57-67).

In regard to claim 27, Onyshkevych et al. discloses improved grading rules provided for the garment comprising applied grading rules that grade the garment up and down from a selected size; and preferred grading rules, wherein fit of the garment is adjusted based on design and fit preferences obtained from one or more potential wearers of the garment (col. 8, line 57-col. 10, line 27).

In regard to claim 28, Onyshkevych et al. discloses a real fit model provided for fitting a garment, wherein the real fit model has body measurements within customized body measurement standards established for a particular body type and size (col. 7, lines 11-14).

In regard to claim 29, Onyshkevych et al. discloses a method of fitting a garment comprising the steps of creating a first garment at a size that is in the middle of a size grouping for a particular body type (col. 3, lines 25-29 and col. 8, lines 42-44); checking the fit of the first garment on a real fit model and making adjustments to the first garment where fit is unsatisfactory, wherein the real fit model has body measurements within customized body measurement standards for the particular body type and size (col. 8, lines 42-44); using applied grading rules to obtain new sizes above and below the first garment size (col. 7, lines 31-47); rechecking the fit of one or more new sizes

above and below on a real fit model and adjusting the fit when unsatisfactory (col. 8, lines 42-44); and adjusting the customized body measurement standards when fit is unsatisfactory (co. 8, lines 42-44).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gioello (4,546,434) discloses a method for designing apparel. Slilaty (5,163,007) discloses a system for measuring custom garments. Park et al. (5,548,519) discloses a custom apparel manufacturing method and apparatus. Patterson et al. (5,680,314) discloses a garment sizing system. Surville (5,757,661) discloses a garment grading system. Park et al. (5,768,135) discloses a custom apparel manufacturing apparatus and method. Rose (5,930,769) discloses a system and method for fashion shopping. Gazzuolo (6,701,207) discloses a method for integrating clothing fit information. Gazzuolo (6,546,309) discloses a virtual fitting room). Swab (6,564,118) discloses a system for creating custom apparel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K Kauffman whose telephone number is (571)272-4988. The examiner can normally be reached on M-F every week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571)272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BKK
4/29/05


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